

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CHARLIE E. FINKLEY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:16cv290-LG-RHW

**ROBERT A. McDONALD,
Secretary of Veterans Affairs**

DEFENDANT

REPORT AND RECOMMENDATION

Before the Court is [2] the *pro se* Plaintiff's motion to proceed *in forma pauperis* (IFP) in this case which appears to be an appeal from a decision of the Secretary of Veterans Affairs. The granting or denying of leave to proceed IFP is left to the sound discretion of the District Court.

Willard v. U.S., 299 F.Supp. 1175, 1177 (N.D. Miss. 1969), *aff'd*, 422 F.2d 810 (5th Cir. 1970).

Leave to proceed *in forma pauperis* is a privilege, not a right. *Evensky v. Wright*, 45 F.R.D. 506, 507-08 (N.D. Miss. 1968).

Plaintiff indicates in his IFP application that he is single and provides support for a 21-year-old daughter, who is a student at the University of Texas. He states he has retirement income of \$3,657 per month, \$300 in cash and \$4,500 in a checking account. His other assets are a \$100,000 home and two cars valued at a total of \$7,000. Plaintiff lists total monthly expenses of \$3,050.

RECOMMENDATION

Because the information provided indicates that Plaintiff can pay the required filing fee, the undersigned recommends that his motion for leave to proceed IFP be denied.

NOTICE OF RIGHT TO APPEAL/OBJECT

After service of a copy of a Report and Recommendation, a party has 14 days to serve on the other parties, submit to the assigned District Judge, and file with the clerk of court his written

objections to the Report and Recommendation, specifically identifying the findings, conclusions, and recommendations to which he objects. The District Court need not consider frivolous, conclusive, or general objections. After service of objections, opposing parties have seven days to either serve and file a response or notify the District Judge that he does not intend to respond to the objection. Except on grounds of plain error, a party cannot attack on appeal any proposed factual finding or legal conclusion accepted by the District Court to which he did file timely objections. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Signed, this the 30th day of August, 2016.

/s/ *Robert H. Walker*
ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE